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7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION
 11

12 WRI GOLDEN STATE, LLC, a Delaware
 13 limited liability company,

14 Plaintiff,

15 v.

16 SAVE MART SUPERMARKETS, d/b/a
 17 FOOD MAXX,

18 Defendant.

19 AND RELATED CROSS-ACTION

Case No. C07-1480-(MMC) WWS

~~PROPOSED~~ AMENDED JUDGMENT

Trial date: July 15, 2008

Judge: Honorable William W Schwarzer

20 On July 15, 2008, this action came on for trial before the Honorable William W
 21 Schwarzer. The Court considered the matter and in accordance with the findings of fact and
 22 July 31, 2008,
 conclusions of law filed concurrently herewith, and pursuant to Rule 58 of the Federal Rules of
 23 Civil Procedure,

24 IT IS ADJUDGED THAT:

25 1. Plaintiff WRI Golden State, LLC, is awarded a declaratory judgment against Save
 26 Mart Supermarkets, d/b/a Food Maxx ("Save Mart"). Specifically, the Court declares that Save
 27 Mart has fully exercised any and all approval rights with respect to the building alterations
 28 proposed for the Wal-Mart store in the Stony Point Plaza Shopping Center located at Stony Point

~~PROPOSED~~ AMENDED JUDGMENT

1 Road and California State Highway 12 in Santa Rosa, California. The Court finds that on
 2 November 20, 2003, Save Mart approved in writing the exterior design, color, elevation, site and
 3 building alterations in connection with the proposed Wal-Mart store and that WRI's acceptance of
 4 Save Mart's consent on January 20, 2004 constitutes an agreement and the approval of Save Mart
 5 with respect to the exterior design, color, elevation, site and building alterations in connection
 6 with the proposed Wal-Mart store. In addition, the Court declares that Save Mart has approved or
 7 is deemed to have approved minor modifications to the Wal-Mart store front required by the City
 8 of Santa Rosa, which modifications were sent by WRI to Save Mart on or about August 30, 2006.

9 2. Save Mart's counterclaim for declaratory relief is dismissed without prejudice,
 10 because it does not present a genuine case or controversy.

11 3. Plaintiff WRI shall recover its costs of suit on the complaint, pursuant to Rule
 12 54(d) of the Federal Rules of Civil Procedure. Plaintiff WRI is, however, not entitled to its costs
 13 of suit on the counterclaim. (*See Miles v. State of California*, 320 F.3d 986, 988 (9th Cir. 2003).)

14 4. On October 21, 2008, Plaintiff's Motion for Attorneys' Fees and Expenses and
 15 Amended Bill of Costs came on for hearing before this Court. After considering Plaintiff's
 16 Motion for Attorneys' Fees and Expenses, the Court granted WRI's Motion for Attorneys' Fees
 17 and Expenses on the Complaint, and denied fees and expenses on the Counterclaim for reasons
 18 stated on the record on October 21, 2008. Plaintiff is awarded \$223,068.00 in attorneys' fees and
 19 expenses on the Complaint. Plaintiff is also awarded its costs of \$ 8,645.10 as claimed on
 20 its Amended Bill of Costs filed August 22, 2008. Accordingly, Plaintiff WRI shall recover from
 21 Defendant Save Mart a total of \$ 231,713.10 in costs, attorneys' fees and expenses.

22 IT IS SO ORDERED.

23 Dated: November 14, 2008

/s/ William W Schwarzer

24 WILLIAM W SCHWARZER
 25 SENIOR U.S. DISTRICT JUDGE
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